



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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November 2, 2007

Reply To: ETPA-088

Ref: 97-013-BLM

Thomas P. Lonnie, State Director
U.S. Department of the Interior
Bureau of Land Management
Alaska State Office
222 W. 7th Avenue, #13
Anchorage, AK 99513-7599

Dear Mr. Lonnie:

The U.S. Environmental Protection Agency (EPA) has completed its review of the **Draft Supplemental Integrated Activity Plan (IAP)/Environmental Impact Statement (DSEIS) for the Northeast National Petroleum Reserve-Alaska (NE NPR-A)** (CEQ No. 070359) in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

The Bureau of Land Management (BLM) has undertaken the NE NPR-A Draft Supplemental IAP and EIS to augment the 2005 final Amended EIS, for which a Record of Decision (ROD) was released on January 11, 2006. The Supplement is in response to a finding of the U.S. District Court for the District of Alaska in *National Audubon Society v. Kempthorne*. This DSEIS evaluates four alternatives for the management of approximately 4.6 million acres of public lands in the Northeast Planning Area of the NPR-A. The alternatives range from continuing with the current lease area in the No Action Alternative A (approximately 87% of the planning area available for lease), through expanded lease areas in Alternatives B and D (both alternatives make approximately 95% of the area available to leasing), to full expansion in Alternative C (which opens the entire area (100%) to leasing). The action alternatives also incorporate various performance-based stipulations and Required Operating Procedures (ROPs), patterned after those being implemented in the Northwest Planning Area, as well as varying leasing and occupancy restrictions.

Although we acknowledge that the DSEIS further analyzed cumulative impacts, EPA continues to have objections with the action alternatives due to their potential significant adverse impacts to important habitat areas (including wetlands, aquatic habitat, and fish and wildlife resources). In our September 9, 2004, comment letter on the DEIS and our March 3, 2005, letter on the FEIS, we expressed our environmental objections to the then-Preferred Alternative. The DEIS amended a 1998 Final IAP/EIS and Record of Decision (ROD). The 1998 IAP/EIS and ROD were the result of a collaborative effort by the BLM; federal, state, and local resource and regulatory agencies; federally recognized Tribes; and residents in local affected communities.

The BLM determined in 1998 that the surface resources in the Teshekpuk Lake and the Colville River Special Areas deserved special protections.

On the basis of information presented in the DEIS prepared in 2004, we determined that, in EPA's view, the biological, cultural and subsistence resources (surface resources) continue to merit the protections assured by the leasing plan in the 1998 ROD. In our 2004 comment letter on the DEIS, we stated that the Preferred Alternative would likely cause significant adverse impacts to fish and wildlife resources and habitat areas (including wetlands and aquatic habitat), and in particular to critical waterfowl habitat and caribou calving and insect-relief areas and migration corridors in the Teshekpuk Lake Special Area. We also expressed objections with the FEIS addition of a modified Preferred Alternative that had greater impacts to water quality and surface resources compared with the Preferred Alternative in the DEIS. Copies of the letters are provided in Enclosure 1.

In addition to the comments above, we have enclosed detailed comments and recommendations on this DSEIS for BLM to consider as the FSEIS is being developed (Enclosure 2).

Since a preferred alternative has not been identified, EPA has assigned a rating to each of the alternatives:

Action Alternative	Rating	Basis
Alternative A	LO	<ul style="list-style-type: none">• Restrictions and protections for most sensitive areas and resources remain unchanged• Prescriptive stipulations remain in place
Alternative B	EO-2	<ul style="list-style-type: none">• Significant adverse impacts to Teshekpuk Lake and Colville River Special Areas• Significant adverse impacts to subsistence resources• Utilization of performance-based stipulations and ROPs warranting data to demonstrate effectiveness
Alternative C	EO-2	<ul style="list-style-type: none">• Significant adverse impacts to Teshekpuk Lake and Colville River Special Areas, and all protected areas.• Significant adverse impacts to subsistence resources• Utilization of performance-based stipulations and ROPs warranting data to demonstrate effectiveness
Alternative D	EO-2	<ul style="list-style-type: none">• Significant adverse impacts to Teshekpuk Lake and Colville River Special Areas.• Significant adverse impacts to subsistence resources• Utilization of performance-based stipulations and ROPs warranting data to demonstrate effectiveness

EPA has rated action alternatives B, C, and D EO-2 (Environmental Objection-Insufficient Information). A copy of the EPA rating system used in conducting our environmental review is provided as Enclosure 3. EPA recommends that the BLM analyze a modified Alternative A that retains the current leasing acreage and surface activity restrictions

described in the Alternative A, but allows for and incorporates the performance-based stipulations and ROPs included in Alternatives B and D as data on effectiveness of these measures become available. EPA believes that the performance-based measures should integrate data available to date from the Northwest Planning Area to demonstrate the effectiveness of these new requirements.

The appropriate use of lease stipulations and ROPs that provide flexibility along with adequate environmental protections and mitigation would optimize the development of oil and gas resources on lands presently open for development, provide for enhanced energy security, and protect the valuable surface resources in the entire Planning Area. We understand the challenges inherent in satisfying multiple objectives, and we believe this modified alternative achieves a balance between oil and gas exploration and development activities and the protection of valuable biological, cultural and subsistence resources.

Although EPA has objections with each of the action alternatives, EPA acknowledges the additional protections for Teshekpuk Lake and the areas to the north, east, and south of the Lake presented in Alternatives B and D. Should BLM proceed with the selection of an alternative other than a modified Alternative A (described above), EPA recommends that the Preferred Alternative reflect the substantial restrictions and protections outlined in both Alternative B and Alternative D.

We acknowledge and appreciate the BLM's ongoing efforts to meet with directly and indirectly affected communities in order to facilitate greater participation. We encourage the BLM to take sufficient time during the preparation of the FSEIS and ROD to engage in additional government-to-government consultation and agency coordination, and provide adequate opportunity to discuss issues, concerns, and comments regarding this DSEIS and the NEPA process.

We look forward to working with you as BLM prepares the final SEIS and ROD. We appreciate the opportunity to provide comments on the DSEIS. Should you have any questions regarding our comments, please contact me at (206) 553-1272. The staff contact for this review is Jennifer Curtis in our Alaska Operations Office at (907) 271-6324.

Sincerely,

/s/

Michelle Pirzadeh, Director
Office of Ecosystems, Tribal and Public Affairs

cc: Jim Ducker, Planning Team Leader, BLM
ENSR Project Office, Anchorage, Alaska

Enclosures

Enclosure 1

**U.S. Environmental Protection Agency
Previous Comment Letters on the
Northeast National Petroleum Reserve-Alaska
Draft and Final IAP/EISs**

Enclosure 2

U.S. Environmental Protection Agency Detailed Comments on the Northeast National Petroleum Reserve-Alaska Draft Supplemental IAP/EIS

Wetlands and Floodplains

Section 4.7.7.6, Section 4.9.6, and Section 4.10.6 refer the reader to the sections for soil, water, and vegetation, which offers the conclusion that these biological resource areas can be classified as having the function and value of wetlands and floodplains. While wetlands are comprised of soils, vegetation and water, only in combination do these elements form wetlands and perform specific wetland functions. Given that at least 95% of the Planning Area is classified as wetlands, EPA believes that this section of the DSEIS should address the specific cumulative effects on wetland functions for the wetland subclasses identified in Table 3.3-A.

The National Research Council (Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope, 2003) found relatively little progress has been made on restoring existing sites affected by gravel fill, citing that only about 1% of the roughly 9,225 acres of tundra habitat covered by gravel has been rehabilitated either naturally or through revegetation efforts. The Council further found it unlikely that most disturbed habitat on the North Slope will actually be restored unless current constraints change because the obligation to restore abandoned sites is unclear and because financial capacity to do so is uncertain. Overall long-term loss of wetland functions would be expected as recovery time estimates in the DSEIS for soils and vegetation following abandonment of oil and gas activities range from decades to hundreds of years. EPA believes that overall wetland function loss for each alternative should be considered irreversible and irretrievable because of the extended timeframe estimated for recovery. EPA recommends that the DSEIS clarify the current success level of rehabilitation and how restoration of wetland functions will improve through the performance-based stipulations and ROPs.

Specific Comments on Performance-Based Stipulations and ROPs

In addition to the detailed comments included in EPA's September, 2004, letter, EPA has the following comments regarding performance-based stipulations and ROPs.

Water Use For Permitted Activities

ROP B-2: Allows up to 100% water withdrawal from any lake with no fish present. It is not clear if current Stipulation 20 would allow the same level of withdrawal. ROP B-2 lacks the requirement found in Stipulation 20 that water may be withdrawn from lakes (less than 7 feet deep) that lack a connection to, or are not subject to seasonal flooding by, a fish-bearing stream. The lack of fish presence required by ROP B-2 would not adequately protect aquatic habitat that may serve as seasonal fish habitat.

Withdrawal of up to 100% would also have adverse affects on emergent and aquatic vegetation, invertebrate communities, waterfowl habitat, and wetlands. EPA believes that, as written, ROP B-2 is not equally effective in providing the level of protection as Stipulation 20. EPA recommends that BLM require the lessee to demonstrate that no seasonal flooding by, or connection to, a fish-bearing stream occur, and that no adverse affects to aquatic vegetation, invertebrate communities, waterfowl habitat, and wetlands will occur.

Winter Overland Moves and Seismic Work

ROP C-2: ROP C-2a is subjective by not defining what frost and snow cover depths are sufficient to protect the tundra in comparison to Stipulation 24i (frost of underlying mineral soil to 12 inches and snow cover to 6 inches). Accordingly, EPA believes that impacts to tundra wetlands and aquatic resources are more likely to result from ROP C-2 since, as written, ROP C-2 is not equally effective in providing the level of protection as Stipulation 24i. EPA recommends that BLM discuss the current information regarding winter tundra travel and the minimum standards recognized by tundra scientists, if applicable. If current data supports minimum depths, EPA believes these minimums should be reflected in this ROP. (Also see EPA September 9, 2004, comments).

Facility Design and Construction

ROP E-1: As proposed, Alternatives B, C, or D allow for permanent roads connecting to a road system or docks outside the Planning Area. Currently, Stipulation 48 prohibits such roads, with minimal exceptions. The DSEIS assumes that all future activities in the NE NPR-A would follow the “roadless” example of Alpine and Badami (Section 4.2.1.2.II.F.5). EPA believes that the increased lease acreages available in the northern portion of the Planning Area under Alternatives B, C, and D and the reported high oil potential (Map 3-3), increase the probability that future developments may seek road connections from the northern portion of the Planning Area to outside of the Planning Area. EPA recommends that the cumulative impact assessment consider as reasonably foreseeable that one or more developments may construct a road connection outside of the Planning Area and/or that the State of Alaska has an interest in developing a transportation project connecting the Planning Area to the existing road system outside the Planning Area (Northwest Area Transportation Plan, ADOT&PF, 2004). Alternative A Stipulation 48 provides substantially more protection than Alternatives B, C, or D ROP E-1 for wetlands and aquatic resources by prohibiting permanent roads connecting to a road system or docks outside the Planning Area. EPA recommends that the prohibition for permanent roads in Stipulation 48 be included in ROP E-1.

- ROP E-6: Alternative A Stipulation 42 requires bridges rather than culverts be used for any allowed road crossing on all major rivers while Alternative B, C, and D ROP E-6 notes that bridges rather than culverts are the preferred method. As such, ROP E-6 is not equally protective as Stipulation 42 and would allow for substantially more impacts to aquatic resources and water quality. EPA recommends that ROP E-6 be revised to require bridges, rather than culverts, be constructed.
- ROP E-8: Designing and constructing gravel mine sites within active flood plains appears to raise issues with Executive Orders 11988 or 11990. Impacts to wetlands, water quality, and aquatic resources will be greater under Alternative B, C, and D ROP E-8 than Alternative A Stipulation 40, which generally prohibits gravel mine sites within the active floodplains. EPA recommends that BLM retain the requirement that gravel mine sites be designed and constructed to function as water reservoirs for future use, but that siting of mine sites in floodplains be prohibited unless no feasible and prudent alternative exists.
- ROP E-12: EPA recommends that key wetland types to avoid identified in Alternative A Stipulation 46 should be included in ROP E-12. As written, ROP E-12 requires only mapping and does not identify the key wetland types to avoid when developing facilities, and does not provide the level of protection for wetlands and aquatic resources of Stipulation 46. EPA believes that BLM should include the requirement to identify and avoid key wetland types.

Lease Stipulations That Apply to Biologically Sensitive Areas

- K-3: Alternative A Stipulation 31 potentially provides more protection to sensitive biological and aquatic resources of Teshekpuk Lake and nearby lands than Lease Stipulation K-3 for Alternatives B and C because no permanent oil and gas facilities are allowed. Lease Stipulation K-3 for Alternative D would be more protective than Lease Stipulation K-3 for Alternatives B and C since approximately 211,000 acres of Teshekpuk Lake would be deferred from leasing; however, it is also uncertain how long the deferral from leasing would be in effect. EPA recommends that BLM identify the timeframe for deferral.